

REMARKS:

Claims 1-4 and 7-10 are in the case and presented for consideration.

Applicant has made formalistic amendments to claims 1, 3, 4 and 8 for clarification purposes. Claims 5 and 6 have been canceled.

For the reasons that follow, Applicant believes all of the claims are now condition for allowance.

Rejection under 35 U.S.C. § 103(a)

Claims 1-10 have been rejected under 35 U.S.C. § 103 as being anticipated by U.S. Patent 5,573,801 to Wilhoit (hereinafter "Wilhoit") in view of U.S. Patent 5,286,506 to Millis et al. (hereinafter "Millis et al.>").

In the office action, it is asserted that "Millis et al. claims that a solution of hop beta acids is effective in preventing growth of Lysteria in packaged solid food products." (Office Action at p. 2, citing Millis, claim 6). Further, it is stated that it would be "obvious to the skilled artisan to use hop beta acids in place of the bacteriosins in Wilhoit if hop beta acids are more readily available and/or more desirable, especially since each of these agents is a well known Listeria inhibitor." (Office Action at p. 3).

Applicant has amended claims 1, 3 and 8 to clarify that the claimed meat product contains 50 to 500 ppm of at least one of the following: hop extract, hydrogenated hop extract, hop alpha acids, hop beta acids, hydrogenated hop acids and derivatives of hop acids or their resins. Claim 4 has been similarly amended.

Millis et al. teach

Taste evaluations indicate that purified beta-acids impart a noticeable flavor above 15 ppm, and *an objectionable flavor above 50 ppm*. Thus the beta-acids are generally applied to the food to be protected from contamination with Listeria

monocytogenes at the level of 6 ppm to 50 ppm with from 6 ppm to 15 ppm being the preferred range, (as based on the weight of the food).

col. 3, ll. 8-14 (emphasis added).

Thus, Millis et al. clearly teach away from applying more than 50 ppm of the beta-acids, as in the claimed invention, indicating that this would be "objectionable." Moreover, Millis et al. teach that 6 to 15 ppm is preferable, even more clearly teaching away from the claimed invention.

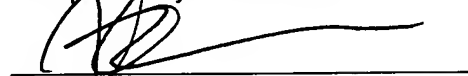
Thus, claims 1-4 and 7-10 are believed to be patentably distinct over Wilhoit in view of Millis et al.

Conclusion

Accordingly, the Applicant believes that Claims 1-4 and 7-10 are now in condition for allowance and favorable action is respectfully requested. No new matter has been added. Should there be any issues that have not been addressed to the Examiner's satisfaction, Applicant invites the Examiner to contact the undersigned attorney.

If any additional fees are due in connection with this response, please charge such fees to Deposit Account No. 14-1431.

Respectfully submitted,



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